RNI No. **KARBIL/2001/47147**

ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

ಸಂಪುಟ ೧೪೮ **Volume 148**	ಬೆಂಗಳೂರು, ಗುರುವಾರ, ನವೆಂಬರ್ ೨೮, ೨೦೧೩ (ಮಾರ್ಗಶಿರ ೭, ಶಕ ವರ್ಷ ೧೯೩೫) **Bangalore, Thursday, November 28, 2013 (Margashira 7, Shaka Varsha 1935)**	ಸಂಚಿಕೆ ೪೭ **Issue 47**

ಭಾಗ ೪

ಕೇಂದ್ರದ ವಿಧೇಯಕಗಳು ಮತ್ತು ಅವುಗಳ ಮೇಲೆ ಪರಿಶೀಲನಾ ಸಮಿತಿಯ ವರದಿಗಳು, ಕೇಂದ್ರದ ಅಧಿನಿಯಮಗಳು ಮತ್ತು ಅಧ್ಯಾದೇಶಗಳು, ಕೇಂದ್ರ ಸರ್ಕಾರದವರು ಹೊರಡಿಸಿದ ಸಾಮಾನ್ಯ ಶಾಸನಬದ್ಧ ನಿಯಮಗಳು ಮತ್ತು ಶಾಸನಬದ್ಧ ಆದೇಶಗಳು ಮತ್ತು ರಾಷ್ಟ್ರಪತಿಯವರಿಂದ ರಚಿತವಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದವರಿಂದ ಪುನಃ ಪ್ರಕಟವಾದ ಆದೇಶಗಳು

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 25 ಕೇಶಾಪ್ರ 2012, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 05ನೇ ಆಗಸ್ಟ್ 2013.

2013ನೇ ಸಾಲಿನ 18-07-2013ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Securities Law (Amendment) Ordinance, 2013 (No. 8 of 2013) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 18th July, 2013

THE SECURITIES LAWS (AMENDMENT)

ORDINANCE, 2013

No. 8 of 2013

Promulgated by the President in the Sixty-fourth Year of the Republic of India.

An Ordinance further to amend the Securities and Exchange Board of India Act, 1992, the Securities Contracts (Regulation) Act, 1956 and the Depositories Act, 1996.

WHEREAS Parliament is not in session and the President is satisfied that the circumstances exist which render it necessary for him to take immediate action.

NOW, THEREFORE, in exercise of the powers conferred by clause (*1*) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. Short title and commencement.- (*1*) This Ordinance may be called the Securities Laws (Amendment) Ordinance, 2013.

(*2*) Save as otherwise provided in this Ordinance, the provisions of this Ordinance shall come into force at once.

CHAPTER II

AMENDMENTS TO THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

2. Amendment of section 11.- In section 11 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) (hereinafter in this Chapter referred to as the principal Act),—

(*i*) in sub-section (*2*),—

(*a*) for clause (*ia*), the following clause shall be substituted, namely:—

"(*ia*) calling for information and records from any person including any bank or any other authority or board or corporation established or constituted by or under any Central or State Act which, in the opinion of the Board, shall be relevant to any investigation or inquiry by the Board in respect of any transaction in securities;";

(*b*) after clause (*ia*), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 6th day of March, 1998, namely:—

"(*ib*) calling for information from, or furnishing information to, other authorities, whether in India or outside India, having functions similar to those of the Board, in the matters relating to the prevention or detection of violations in respect of securities laws, subject to the provisions of other laws for the time being in force in this regard:

Provided that the Board, for the purpose of furnishing any information to any authority outside India, may enter into an arrangement or agreement or understanding with such authority with the prior approval of the Central Government;";

(*ii*) after sub-section (*4*), the following sub-section shall be inserted, namely:—

"(*5*) The amount disgorged, pursuant to a direction issued, under section 11B or section 12A of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or section 19 of the Depositories Act, 1996 (22 of 1996) as the case may be, shall be credited to the Investor Protection and Education Fund established by the Board and such amount shall be utilised by the Board in accordance with the regulations made under this Act."

3. Amendment of section 11AA.- In section 11AA of the principal Act,—

(*i*) in sub-section (*1*)—

(*a*) after the word, brackets and figure "sub-section (2)", the words, brackets, figure and letter "or sub-section (2A)" shall be inserted;

(*b*) the following proviso shall be inserted, namely:—

"Provided that any pooling of funds under any scheme or arrangement, which is not registered with the Board or is not covered under sub-section (*3*), involving a corpus amount of one hundred crore rupees or more shall be deemed to be a collective investment scheme.";

(*ii*) in sub-section (*2*), in the opening portion, for the word "company", the word "person" shall be substituted;

(*iii*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*2A*) Any scheme or arrangement made or offered by any person satisfying the conditions as may be specified in accordance with the regulations made under this Act.";

(*iv*) in sub-section (*3*),—

(*a*) after the word, brackets and figure "sub-section (2)", the words, brackets, figure and letter "or sub-section (2A)" shall be inserted;

(*b*) after clause (*viii*), the following clause shall be inserted, namely:—

"(*ix*) such other scheme or arrangement which the Central Government may, in consultation with the Board, notify,".

4. Amendment of section 11B.- In section 11B of the principal Act, the following *Explanation* shall be inserted, namely:—

"*Explanation.*—For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, the disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.".

5. Amendment of section 11C.- In section 11C of the principal Act,—

(*i*) for sub-section (*8*), the following sub-section shall be substitued, namely:—

'(*8*) Where in the course of an investigation, the Investigating Authority has reason to believe that any person or enterprise, as the case may be, to whom a notice under sub-section (*3*) has been issued or might be issued,—

(*a*) has omitted or failed to provide the information or produce documents as required in the notice; or

(*b*) would not provide the information or produce documents which shall be useful for, or relevant to, the investigation; or

(*c*) would destroy, mutilate, alter, falsify or secrete the information or documents useful for, or relevant to, the investigation,

then, the Chairman may, after being satisfied that it is necessary to do so, authorise the Investigating Authority or any other officer of the Board (the officer so authorised in all cases being hereinafter referred to as the authorised officer), to—

(*i*) enter and search, with such assistance, as may be required, the building, place, vessel, vehicle or aircraft where such information or documents are expected or believed to be kept;

(*ii*) break open the lock of any door, box, locker, safe almirah or other receptacle for exercising the powers conferred by sub-clause (*i*), wherer the keys thereof are not available;

(*iii*) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account or other documents;

(*iv*) require any person who is found to be in possession or control of any books of account or other documents, maintained in the form of electronic record, to provide the authorised officer the necessary facility to inspect such books of account or other documents.

Explanation—For the purposes of this sub-clause, the expression "electronic record" shall have the meaning assigned to it in cluase (t) of sub-section (*1*) of section 2 of the Information Technology Act, 2000 (21 of 2000).

(*v*) seize any such books of account or other documents found as a result of such search;

(*vi*) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom;

(*vii*) record on oath the statement of any person who is found to be in possession or in control of the information or documents referred to in sub-clause (*i*), (*iii*) and (*iv*).''

(*ii*) for sub-section (*9*), the following sub-section shall be substituted, namely,—

"(*9*) The Board may make regulations in relation to any search or seizure under this section; and in particular, without prejudice to the generality of the foregoing power, such regulations may provide for the procedure to be followed by the authorised officer—

(*a*) for obtaining ingress into any building, place, vessel, vehicle or aircracft to be searched where free ingress thereto is not available;

(*b*) for ensuring safe custody of any books of account or other documents or assets seized.";

(*iii*) in sub-section (10), the words "and inform the Magistrate of such return" shall be omitted.

6. Insertion of new section 15JB.- After section 15JA of the principal Act, the following section shall be inserted

and shall be deemed to have been inserted with effect from the 20th day of April, 2007, namely:—

"15JB. Settlement of administrative and civil proceedings.- (*1*) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 11, section 11B, section 11D, sub-section (*3*) of section 12 or section 15-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(*2*) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under this Act.

(*3*) The settlement proceedings under this section shall be conducted in accordance with the procedure specified in the regulations made under this Act.

(*4*) No appeal shall lie under section 15T against any order passed by the Board or Adjudicating officer, as the case may be, under this section.".

7. Amendment of section 15T.- In section 15T of the principal Act,sub-section (*2*) shall be omitted.

8. **Amendment of section 26.-** In section 26 of the principal Act, sub-section (*2*) shall be omitted.

9. Insertion of new sections 26A, 26B, 26C, 26D and 26E.- After section 26 of the principal Act, the following sections shall be inserted, namely:—

"26A. Establishment of Special Courts.- (*1*) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(*2*) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(*3*) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

26B. Offences triable by Special Courts.- Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Ordinance, 2013

or on or after the date of such commencement, shall be taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

26C. **Appeal and revision.-** The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 (2 of 1974) on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

26D. Application of Code to proceedings before Special Court.- (*1*) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

26E. Transitional provisions.- Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973: (2 of 1973)

Provided that nothing contained in this section shall affect the powers of the High Court under section 407 of the Code of Criminal Procedure, 1973 (2 of 1974) to transfer any case or class of cases taken cognizance by a Court of Session under this Section.".

10. Insertion of new section 28A.- After section 28 of the principal Act, the following section shall be inserted, namely:—

'28A. Recovery of amounts.- (*1*) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any direction of the Board for refund of monies or fails to comply with a direction of disgorgement order issued under section 11B or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:—

(*a*) attachment and sale of the person's movable property;

(*b*) attachment of the person's bank accounts;

(*c*) attachment and sale of the person's immovable property;

(*d*) arrest of the person and his detention in prison;

(*e*) appointing a receiver for the management of the person's movable and immovable properties;

and for this purpose, the provisions of sections 221 to 227, 228A, 229, 231, 232, the Second and Third Schedules to the Income-tax Act, 1961 (43 of 1961) and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules made thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1.—For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

Explanation 2.— Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3.—Any reference to appeal in Chapter XVIID and the Second Schedule to the Income-tax Act, 1961, (43 of 1961) shall be construed as a reference to appeal before the Securities Appellate Tribunal under section 15T of this Act.

(*2*) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (*1*).

(*3*) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (*1*), pursuant to non-compliance with any direction issued by the Board under section 11B, shall have precedence over any other claim against such person.

(*4*) For the purpose of sub-sections (*1*), (*2*) and (*3*), the expression "Recovery Officer" means any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.'.

11. Amendment of section 30.- In section 30 of the principal Act, in sub-section (*2*),—

(*i*) after clause (*c*), the following clauses shall be inserted, namely:—

"(*ca*) the utilisation of the amount credited under sub-section (*5*) of section 11;

(*cb*) the fulfilment of other conditions relating to collective investment scheme under sub-section (*2A*) of section 11AA;

(*cc*) the procedure to be followed by the authorised officer for search or seizure under sub-section (*9*) of section 11C;";

(*ii*) after clause (*d*), the following clauses shall be inserted, namely:—

"(*da*) the terms determined by the Board for settlement of proceedings under sub-section (*2*) and the procedure for conducting of settlement proceedings under sub-section (*3*) of section 15JB;

(*db*) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.".

CHAPTER III

AMENDMENTS TO THE SECURITIES CONTRACTS (REGULATION) ACT, 1956

12. Amendment of section 12A.- In section 12A of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) (hereafter in this Chapter referred to as 'the principal' Act), the following *Explanation* shall be inserted, namely:—

"*Explanation*.—For the removal of doubts, it is hereby declared that power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.".

13. Insertion of new section 23JA.- After section 23J of the principal Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 20th day of April, 2007, namely:—

"23JA. Settlement of Administrative and Civil Proceedings.- (*1*) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 12A or section 23-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(*2*) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992. (15 of 1992)

(*3*) For the purpose of settlement under this section, the procedure as specified by the Board under the Securities and Exchange Board of India Act, 1992 (15 of 1992) shall apply.

(*4*) No appeal shall lie under section 23L against any order passed by the Board or the adjudicating officer, as the case may be, under this section.".

14. Insertion of new section 23JB.- After section 23JA of the principal Act as so inserted, the following section shall be inserted, namely:—

'23JB. Recovery of amounts.- (*1*) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with a direction of disgorgement order issued under section 12A or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:—

(*a*) attachment and sale of the person's movable property;

(*b*) attachment of the person's bank accounts;

(*c*) attachment and sale of the person's immovable property;

(*d*) arrest of the person and his detention in prison;

(*e*) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of sections 221 to 227, 228A, 229, 231, 232, the Second and Third Schedules to the Income-tax Act, 1961 (43 of 1961) and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1.—For the purposes of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred, directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor

child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

Explanation 2.—Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 (43 of 1961) and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3.—Any reference to appeal in Chapter XVIID and the Second Schedule to the Income-tax Act, 1961, (43 of 1961) shall be construed as a reference to appeal before the Securities Appellate Tribunal under section 23L of this Act.

(*2*) The recovery officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (*1*).

(*3*) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (*1*), pursuant to non-compliance with any direction issued by the Board under section 12A, shall have precedence over any other claim against such person.

(*4*) For the purposes of sub-section (*1*), (*2*) and (*3*) , the expression "Recovery Officer" means any officer of the Board who may be authorised, by general or special order in writing to exercise the powers of a Recovery Officer.'.

15. Amendment of section 26.- In section 26 of the principal Act, sub-section (*2*) shall be omitted.

16. Insertion of new sections 26A, 26B, 26C, 26D and 26E.- After section 26 of the principal Act, the following sections shall be inserted, namely:—

"26A. Establishment of Special Courts.- (*1*) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(*2*) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(*3*) A person shall not be qualified for appointment as a judge of Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

26B. Offences triable by Special Courts.- Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (20 of 1974) all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Ordinance, 2013 or on or after the date of such commencement, shall be taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

26C. Appeal and Revision.- The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 (2 of 1974) on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

26D. Application of Code to proceedings before Special Court.- (*1*) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (*u*) of section *2* of the Code of Criminal Procedure, 1973.

(*2*) The person conducting prosecution referred to in sub-section (*1*) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

26E. Transitional provisions.- Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) :

Provided that nothing contained in this section shall affect the powers of the High Court under section 407 of the Code to transfer any case or class of cases taken cognizance by a Court of Session under this section.".

CHAPTER IV

AMENDMENTS TO THE DEPOSITORIES ACT, 1996

17. Amendment of section 19.- In section 19 of the Depositories Act, 1996 (22 of 1996) (hereafter in this chapter referred to as the principal Act in this chapter), the following Explanation shall be inserted, namely:—

"*Explanation.*—For the removal of doubts, it is hereby declared that power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.".

18. Insertion of new section 19-IA.- After section 19-I of the principal Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 20th day of April, 2007, namely:—

"19-IA. Settlement of Administrative Civil Proceedings.- (*1*) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 19 or section 19H, as the case may be, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(*2*) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992).

(*3*) For the purpose of settlement under this section, the procedure as specified by the Board under the Securities and Exchange Board of India Act, 1992 (15 of 1992) shall apply.

(*4*) No appeal shall lie under secton 23A against any order passed by the Board or the adjudicating officer under this section.".

19. Insertion of new section 19-IB.- After section 19-IA of the principal Act as so inserted, the following shall be inserted, namely:—

'19-IB Recovery of amounts.- (*1*) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with a direction of disgorgement order issued under section 19 or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:—

(*a*) attachment and sale of the person's movable property;

(*b*) attachment of the person's bank accounts;

(*c*) attachment and sale of the person's immovable property;

(*d*) arrest of the person and his detention in prison;

(*e*) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of sections 221 to 227, 228A, 229, 231, 232, the Second and Third Schedules to the Income-tax Act, 1961 (43 of 1961) and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1.— For the purposes of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred, directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or sons' minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

Explanation 2.— Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 (43 of 1961) and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3.—Any reference to appeal in Chapter XVIID and the Second Schedule to the Income-tax Act, 1961 (43 of 1961) shall be construed as a reference to appeal before the Securities Appellate Tribunal under section 23A of this Act.

(2) The recovery officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section *(1)*.

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section *(1)*, pursuant to non-compliance with any direction issued by the Board under section 19, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections *(1)*, *(2)* and *(3)*, the expression "Recovery Officer" means any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.

20. Amendment of section 22.- In section 22 of the principal Act, sub-section *(2)* shall be omitted.

21. Insertion of new sections 22C, 22D, 22E, 22F and 22G.- After section 22B of the principal Act, the following sections shall be inserted, namely:—

"22C. Establishment of Special Courts.- *(1)* The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

22D. Offences triable by Special Courts.- Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Ordinance, 2013 or on or after the date of such commencement, shall be taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

22E. Appeal and Revision.- The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 (2 of 1974) on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

22F. Application of Code to proceedings before Special Court.- *(1)* Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (*u*) of section *2* of the Code of Criminal Procedure, 1973 (2 of 1974).

(2) The person conducting prosecution referred to in sub-section (*1*) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

22G. Transitional provisions.- Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974).

Provided that nothing contained in this section shall affect the powers of the High Court under section 407 of the Code to transfer any case or class of cases taken cognizance by a Court of Session under this section.".

22. Amendment of section 23A.- In section 23A of the principal Act, sub-section *(2)* shall be omitted.

PRANAB MUKHERJEE,
President.

P.K. MALHOTRA,
Secy. to the Govt. of India.

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ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆಜ್ಞಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಆರ್. ಆಂಜಿನಿ,
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

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